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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,180	04/29/2005	Peter John James	FISHER-E	7167

79341 7590 06/20/2008

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EXAMINER	
OHERN, BRENT T	

ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
06/20/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/533,180	JAMES, PETER JOHN	
	Examiner	Art Unit	
	Brent T. O'Hern	1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 April 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *4/29/2005*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

1. Claim 5 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the **written description** requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The phrase the **"the juice is extracted, concentrated, and stored in liquid concentrate tank(s)"** in claim 5, line 2 is not supported by the Specification. The Specification does not disclose what material has juice what the juice is or how the juice is extracted.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear where the juice originates, what comprises the juice and how the juice is extracted. Furthermore, there is insufficient antecedent basis for "the juice" limitation in the claim.

Clarification and/or correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-6, 8-11, 13, 16-18 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hess et al. (US 3,420,671) in view of Fiala et al. (US 4,012,535).

Hess ('671) teaches a method of processing a legume fodder crop and a method of producing an animal feed, including the steps of growing a legume fodder, harvesting the crop, (a) delivering with minimum delay, freshly harvested legume fodder crop in bulk to a feed mill; (b) processing the crop with a hammermill/rotary knives; (c) drying the shredded material to produce a dried animal feed material, suitable for long term storage; (d) mixing the dried material with a syrup or other binder and enzymes that modify the material to improve digestion of the feed, thus, increasing the value of the feed; and the combining the materials into pellets *(See col. 1, l. 19-47 and col. 3, ll. 12-37. It is known that all processed fodder at a feed mill has clearly been previously grown and harvested otherwise it would not exist. Hammermills are known to have different heads, including knife-like surfaces, especially when the edges become worn.)*, however, fails to expressly disclose the shredded material being dried.

However, Fiala ('535) teaches drying feed material *(See col. 13, l. 7 to col. 14, l. 35.)* for the purpose of providing high density dry feed *(See col. 14, ll. 1-35.)*.

Furthermore, it known to a person having ordinary skill in the art that once plants are cut they die or die naturally and the inner plant materials become dry through dehydration. Additionally, it is known that if feed materials become excessively wet they will degrade, thus, there is an interest to maintain the integrity of the feed by drying.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time Applicant's invention was made to dry the feed material as taught by Fiala ('535) in Hess ('671) in order to provide a food with high density and good integrity.

The phrases "harvested legume fodder crop to a feed mill located at/adjacent to a cane sugar mill" in claim 1, lines 3-4, "using heat supplied by the cane sugar mill or from by-products of the cane sugar mill" in claim 1, lines 8-9, "is delivered to the feed mill in bulk using a transport system/infrastructure of the cane sugar mill" in claim 3, lines 2-3; "wherein: in step (c), the shredded matter is dried using hot flue gas from the sugar mill boiler, or from a separate furnace fired with sugar cane bagasse either fresh from the cane sugar mill or from a stockpile" and (c) using heat supplied by the cane sugar mill or from by-products of the cane sugar mill" in claim 11, lines 6-7 are not limiting since where the fodder is grown, where the source of heat comes from and what type of equipment is used to transport the material to the plant is not material to the method of processing legume fodder. Whether or not the fodder is grown on land adjacent to a sugar mill, the heat source is a sugar mill or arrives by way of sugar mill infrastructure does not affect the legume fodder.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hess et al. (US 3,420,671) in view of Fiala et al. (US 4,012,535) and Kieter (US 2,091,284).

Hess ('671) and Fiala ('535) teach the method discussed above, however, fail to expressly disclose wherein the dried shredded material is separated into coarse (stem) and fine (leaf) dry fibre fractions.

However, Kieter ('284) teaches separating the shredded material into coarse (stem) and fine (leaf) dry fibre fractions *(See p. 2, col. 1, ll. 1-41 and p. 3, col. 1, line 26 to col. 2, l. 25.)* for the purpose of providing a preserved feed material that has a high protein concentration that can be remixed in the final formulation *(See p. 1, col. 2, ll. 3-33 and p. 2, col. 1, ll. 1-41.)*.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time Applicant's invention was made to separate the coarse and fine material in order to provide a feed with high protein feed with preserved protein and uniform concentration.

5. Claims 12, 14-15 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hess et al. (US 3,420,671) in view of Fiala et al. (US 4,012,535) and Myhre (US 6,579,552).

Regarding claims 1, 14 and 19, Hess ('671) and Fiala ('535) teach the method discussed above, however, fails to expressly disclose bailing the dried and shredded material and outloading or containerizing it for transport.

However, Myhre ('552) teaches bailing dried alfalfa hay *(See col. 1, ll. 13-22, col. 3, l. 34 to col. 4, l. 21 and FIGS 1-3.)* for the purpose of providing a compact mass of hay that can be shipped to foreign countries via containers or other shipping means *(See col. 1, ll. 13-22.)*.

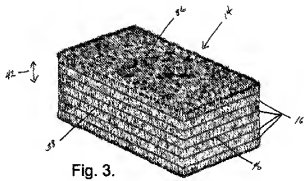

Fig. 3.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time Applicant's invention was made to bail the alfalfa hay into a compact mass that can be shipped to distant destinations.

Regarding claim 15, Hess ('671) and Myhre ('552) teach the method discussed above, however, fail to expressly disclose molasses being mixed with dried material (or hay) to increase the nutritional value thereof.

However, Fiala ('535) teaches adding molasses to animal feed *(See col. 1, ll. 55-68, col. 6, ll. 5-20 and Abstract.)* for the purpose of providing an animal with nutrients *(See col. 1, ll. 55-68.)*.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time Applicant's invention was made to add molasses to feed as taught by Fiala ('535) in Hess ('671) in order to provide an animal feed with nutrients.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent T. O'Hern whose telephone number is (571)272-0496. The examiner can normally be reached on Monday-Thursday, 9:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brent T O'Hern/
Examiner, Art Unit 1794
June 17, 2008

/Elizabeth M. Cole/
Primary Examiner, Art Unit 1794